

January 8, 2009

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 8th day of January at 8:00 P.M., and there were

PRESENT:            MARK AQUINO, MEMBER  
                         JAMES PERRY, MEMBER  
                         LAWRENCE PIGNATARO, MEMBER  
                         RICHARD QUINN, MEMBER  
                         ARLIE SCHWAN, MEMBER  
                         ROBERT THILL, MEMBER  
                         JEFFREY LEHRBACH, CHAIRMAN

ABSENT:            NONE

ALSO PRESENT:    JOHANNA M. COLEMAN, TOWN CLERK  
                         JEFFREY SIMME BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

**PETITION OF GARY & KELLY GALLAGHER**

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Gary and Kelly Gallagher, 5 Butler Drive, Lancaster, New York 14086 for one [1] variance for the purpose of constructing an attached garage on property owned by the petitioners at 5 Butler Drive, Lancaster New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Butler Drive with an exterior side yard [considered a front yard equivalent] fronting on Bentley Circle. The location of the proposed garage will result in a 20.22 foot west exterior side yard set back on Bentley Circle.

Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster requires a thirty five [35] foot exterior side yard set back on Bentley Circle. The petitioners, therefore, request a 14.78 foot west exterior side yard set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Joseph Christ, contractor representing petitioner	Proponent
Kelly Gallagher, petitioner	Proponent

**IN THE MATTER OF THE PETITION OF GARY & KELLY GALLAGHER**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. THILL  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Gary & Kelly Gallagher and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of January 2009, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicants are the present owners of the premises in question.

**WHEREAS**, the property for which the applicants are petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That an undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That the benefit sought by the applicants can be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought; offsite storage as well as the addition of a concrete pad are viable options.

That the requested area variance relief is substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district as it does not interfere with sight lines.  
(Mr. Thill dissents)

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That a sight inspection indicates no three car garages in Bowen Square subdivision.

That the petitioner failed to carry the burden of establishing that strict compliance with the Zoning Ordinance would cause practical difficulties rendering the property unusable.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**CONSIDERED.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED NO
MR. PERRY	VOTED NO
MR. PIGNATARO	VOTED NO
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED NO
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED NO

The resolution granting the variance was thereupon **DENIED.**

January 8, 2009

**PETITION OF MYRON WASYL PRYSTAJKO:**

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Myron Wasyl Prystajko, 11025 Westwood Road, Alden, New York 14004 for one [1] variance for the purpose of operating an automotive sales, limousine business, showroom and office on property owned by the petitioner located at 3568 Walden Avenue, Lancaster, New York, namely:

A variance from the requirements of Chapter 50, Zoning, Section 18C.(1) and Section 20C.(1) of the Code of the Town of Lancaster. The lot area of the premises upon which the variance is sought contains 30,407.10 square feet.

Chapter 50, Zoning, Section 18C.(1) and Section 20C.(1) of the Code of the Town of Lancaster require a minimum lot area of 43,560 square feet. The petitioner, therefore, requests a 13,152.90 square foot lot area variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

Copy of a letter notifying the Village of Lancaster of the time and place of this public hearing.

Copy of a letter notifying the Village of Depew of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Myron Prystajko, petitioner

Proponent

**IN THE MATTER OF THE PETITION OF MYRON WASYL PRYSTAJKO**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. QUINN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Myron Wasyl Prystajko and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of January 2009, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicant is the present owner of the premises in question.

**WHEREAS**, the property for which the applicant is petitioning is within a Neighborhood Business District, (NB) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought. (Mr. Thill dissents)

That no detriment to nearby properties will be created by the granting of the area variance relief sought. (Mr. Thill dissents)

That the neighborhood has a Dunn Tire store, a car dealership and other Commercial and Motor Service District uses.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought. (Mr. Thill dissents)

That the requested area variance relief is not substantial. (Mr. Thill dissents)

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. (Mr. Thill dissents)

That the alleged difficulty is not self created and should not preclude the granting of the area variance relief sought.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**GRANTED.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

January 8, 2009

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 9:07 P.M.

Signed \_\_\_\_\_  
Johanna M. Coleman, Town Clerk and  
Clerk, Zoning Board of Appeals  
Dated: January 8, 2009